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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,624	09/22/2003	David J. Bennetts	D. BENNETTS 3-5-6	1185
47396	7590	04/06/2006	EXAMINER	
HITT GAINES, PC AGERE SYSTEMS INC. PO BOX 832570 RICHARDSON, TX 75083			LE, LANA N	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/667,624	Applicant(s) BENNETTS ET AL.	
	Examiner Lana N. Le	Art Unit 2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 6 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-9 and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Westlake (GB 2,365,241).

Regarding claim 1, Westlake discloses a system (figs. 2&3) for obscuring ambient noise, comprising:

a background sound generator (12, 13) (page 3, lines 16-23);
a mixer (15) coupled to the background sound generator (13); and
a user interface (14) coupled to the mixer (15), that, upon a user command (user input), causes the mixer (15) to mix an output of the background sound generator (13) with a transmitted signal (output from 11) (page 3, lines 3-14; page 4, lines 14-35).

Regarding claim 2, Westlake discloses the system as recited in claim 1 wherein the background sound generator (12, 13) synthesizes the output (page 3, lines 16-23; page 4, lines 27-29).

Regarding claim 3, Westlake discloses the system as recited in claim 1 wherein the background sound generator (12) reproduces the output from stored background sound data (stored in 12) (page 4, lines 27-31).

Regarding claim 4, Westlake discloses the system as recited in claim 1 wherein the background sound generator (44-46) reproduces the output from a data stream received in real time (fig. 3) (page 6, lines 28-33).

Regarding claim 5, Westlake discloses the system as recited in claim 1 wherein the output is selectable via the user interface (14).

Regarding claim 7, Westlake discloses the system as recited in Claim 1 wherein the system is associated with a selected one of:

a wireless handset, and a wireline handset (page 2, lines 27-33).

Regarding claim 8, Westlake discloses a handset (mobile handset) comprising the system as recited in claim 1 (page 2, lines 27-33).

Regarding claim 9, Westlake discloses the handset as recited in Claim 8 wherein the handset is selected from the group consisting a wireless handset, and a wireline handset (page 2, lines 27-33).

Regarding claim 11, Westlake discloses a method of obscuring ambient noise, comprising:

generating a background sound (via 12, 13; fig. 2); and responding to a user command (user input) by mixing (via 15) the background sound with a transmitted signal (output from 11) (page 3, lines 3-14; page 4, lines 27-29).

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Regarding claim 12, Westlake discloses the method as recited in claim 11 wherein the generating comprises synthesizing the background sound (12, 13) (page 4, lines 27-29).

Regarding claim 13, Westlake discloses the method as recited in claim 11 wherein the generating comprises reproducing the background sound from stored background sound data (stored in 12) (page 4, lines 27-31).

Regarding claim 14, Westlake discloses the method as recited in claim 11 wherein the generating (via 44-46) comprises reproducing the background sound from a data stream received in real time (page 6, lines 28-33).

Regarding claim 15, Westlake discloses the method as recited in claim 11 wherein the output is selectable via the user interface (14).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westlake in view of Sano (US 5,802,109).

Regarding claim 10, Westlake discloses a handset comprising the system as recited in claim 1 wherein Westlake does not disclose a central office equipment. Sano discloses a central office equipment comprising a background noise suppression system (col 5, lines 38-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the system in a base station in order to reduce an unfamiliar background noise in the base station.

Regarding claim 17, Westlake discloses the method as recited in Claim 11 wherein Westlake discloses the method is carried out in a selected one of:

a wireless handset, a wireline handset (page 2, lines 27-33). Westlake does not disclose the method is carried out in a central office. Sano discloses the method for reducing background noise is carried out in a central office (col 5, lines 38-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the system in a base station in order to reduce an unfamiliar background noise in the base station.

Allowable Subject Matter

5. Claims 6 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 6, Westlake discloses the system as recited in claim 1 wherein Westlake discloses the background sound is simulated alternative

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ambient noise. Westlake and the cited prior art do not disclose the background sound is selected from the group consisting of:

music, white noise, colored noise, out-of-phase ambient noise, and simulated alternative ambient noise.

Regarding claim 16, Westlake discloses the method as recited in claim 11 wherein Westlake and the cited prior art do not disclose the background sound is simulated alternative ambient noise, the background sound is selected from the group consisting of:

music, white noise, colored noise, out-of-phase ambient noise, and simulated alternative ambient noise.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lana N. Le whose telephone number is (571) 272-7891. The examiner can normally be reached on M-F 9:30-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lana Le

Lana N. Le
03-30-06

LANA LE
PRIMARY EXAMINER